

Order

Michigan Supreme Court
Lansing, Michigan

October 26, 2010

Marilyn Kelly,
Chief Justice

139096

Michael F. Cavanagh
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway
Alton Thomas Davis,
Justices

ALISHA ANN RECKER,
Plaintiff-Appellant,

v

SC: 139096
COA: 284676
Grand Traverse CC:
07-025927-NI

CHARTER COMMUNICATIONS HOLDING,
COMPANY, L.L.C., and MICHAEL ALAN
WARNES,
Defendants-Appellees.

By order of October 26, 2009, the application for leave to appeal the May 12, 2009 judgment of the Court of Appeals was held in abeyance pending the decision in *McCormick v Carrier* (Docket No. 136738). On order of the Court, the case having been decided on July 31, 2010, 487 Mich ____ (2010), the application is again considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we VACATE the judgments of the Court of Appeals and the Grand Traverse Circuit Court, and we REMAND this case to the trial court for reconsideration in light of *McCormick*.

CORRIGAN, J. (*concurring*).

I concur in the order remanding for reconsideration under *McCormick v Carrier*, 487 Mich ____ (2010), because the majority opinion in *McCormick* altered the criteria for determining whether an injured plaintiff meets the serious impairment threshold in MCL 500.3135(7). But I reiterate my disagreement with the *McCormick* majority's analysis for the reasons expressed in Justice MARKMAN's dissent in that case, which I joined. I continue to conclude that the *McCormick* majority misinterpreted MCL 500.3135(7), thus encouraging litigation that is expressly prohibited by the motor vehicle no-fault insurance act and upsetting the Legislature's clear intent to provide Michigan citizens with timely, automatic benefits for injuries sustained in auto accidents while avoiding costly, unnecessary litigation.

YOUNG, J. (*concurring*).

Although I recognize that this Court's decision in *McCormick v Carrier*, 487 Mich ____ (2010), now controls when a person may recover in tort for non-economic loss under the no-fault act, I continue to adhere to the position stated in Justice MARKMAN's dissenting opinion in that case, which I joined.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 26, 2010

Corbin R. Davis

Clerk